

GIBSON DUNN

September 12, 2022

VIA ECF

The Hon. Sarah L. Cave  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *Bernstein, et al. v. Cengage Learning, Inc.*, Case No. 19-cv-7541-ALC-SLC

Your Honor:

Third-party Dr. Jonathan McDonald and Defendant Cengage Learning, Inc. withdraw their request for a pre-motion conference to discuss their previously anticipated motion to quash and/or defer the deposition subpoena that Plaintiffs had served on Dr. McDonald (Dkt. 151). The parties have resolved their dispute.

Specifically, Plaintiffs have agreed not to pursue the deposition of Dr. McDonald before this Court decides whether to certify this case as a class action. Cengage agrees that it will not submit a new declaration from Dr. McDonald in connection with class certification unless necessary to correct the record. The parties agree to revisit whether to depose Dr. McDonald if Cengage submits a new declaration, and/or after a decision on class certification.

Thank you for your attention to this matter.

Sincerely,



Christopher Chorba

Defendant and Third-Party's letter-motion seeking a pre-motion conference regarding a possible motion to quash and judicial intervention regarding Dr. Jonathan McDonald's deposition (ECF No. 151) is DENIED AS MOOT.

The telephonic conference scheduled for **Wednesday, September 28, 2022 at 2:00 pm** shall proceed as scheduled to address Plaintiff's motion to compel regarding Cengage's privilege logs. (ECF No. 148).

The Clerk of Court is respectfully directed to close ECF No. 158.

SO ORDERED 09/13/22

  
SARAH L. CAVE  
United States Magistrate Judge